

103^D CONGRESS
2^D SESSION

S. 2394

To establish a National Physical Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

IN THE SENATE OF THE UNITED STATES

AUGUST 16 (legislative day, AUGUST 11), 1994

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To establish a National Physical Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Physical Fit-
5 ness and Sports Foundation Establishment Act”.

6 **SEC. 2. ESTABLISHMENT AND PURPOSE OF FOUNDATION.**

7 (a) ESTABLISHMENT.—There is established the Na-
8 tional Physical Fitness and Sports Foundation (herein-

1 after in this Act referred to as the “Foundation”). The
2 Foundation is a charitable and nonprofit corporation and
3 is not an agency or establishment of the United States.

4 (b) PURPOSES.—The purposes of the Foundation
5 are—

6 (1) in conjunction with the President’s Council
7 on Physical Fitness and Sports, to develop a list and
8 description of programs, events and other activities
9 which would further the goals outlined in Executive
10 Order 12345 and with respect to which combined
11 private and governmental efforts would be beneficial;
12 and

13 (2) to encourage and promote the participation
14 by private organizations in the activities referred to
15 in subsection (b)(1) and to encourage and promote
16 private gifts of money and other property to support
17 those activities.

18 (c) DISPOSITION OF MONEY AND PROPERTY.—At
19 least annually the Foundation shall transfer, after the de-
20 duction of the administrative expenses of the Foundation,
21 the balance of any contributions received for the activities
22 referred to in subsection (b), to the United States Public
23 Health Service Gift Fund pursuant to section 2701 of the
24 Public Health Service Act (42 U.S.C. 300aaa) for expendi-

1 ture pursuant to the provisions of that section and consist-
2 ent with the purposes for which the funds were donated.

3 **SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.**

4 (a) ESTABLISHMENT AND MEMBERSHIP.—The
5 Foundation shall have a governing Board of Directors
6 (hereinafter referred to in this Act as the “Board”), which
7 shall consist of nine Directors each of whom shall be a
8 United States citizen—

9 (1) three of whom must be knowledgeable or ex-
10 perience in one or more fields directly connected
11 with physical fitness, sports or the relationship be-
12 tween health status and physical exercise; and

13 (2) six of whom must be leaders in the private
14 sector with a strong interest in physical fitness,
15 sports or the relationship between health status and
16 physical exercise.

17 The membership of the Board, to the extent practicable,
18 shall represent diverse professional specialties relating to
19 the achievement of physical fitness through regular par-
20 ticipation in programs of exercise, sports and similar ac-
21 tivities. The Assistant Secretary for Health, the Executive
22 Director of the President’s Council on Physical Fitness
23 and Sports, the Director for the National Center for
24 Chronic Disease Prevention and Health Promotion, the
25 Director of the National Heart, Lung, and Blood Institute

1 and the Director for the Centers for Disease Control and
2 Prevention shall be ex officio, nonvoting members of the
3 Board. Appointment to the Board or its staff shall not
4 constitute employment by, or the holding of an office of,
5 the United States for the purposes of any Federal employ-
6 ment or other law.

7 (b) APPOINTMENT AND TERMS.—Within ninety days
8 from the date of enactment of this Act, the Directors of
9 the Board will be appointed. The Directors shall serve for
10 a term of six years; three of whom will be appointed by
11 the Secretary (hereinafter referred to in this Act as the
12 “Secretary”); two by the majority leader of the Senate;
13 one by the minority leader of the Senate; two by the
14 Speaker of the House of Representatives; one by the mi-
15 nority leader of the House of Representatives. A vacancy
16 on the Board shall be filled within sixty days of said va-
17 cancy in the manner in which the original appointment
18 was made, and shall be for the balance of the term of the
19 individual who was replaced. No individual may serve
20 more than two consecutive terms as a Director.

21 (c) CHAIRMAN.—The Chairman shall be elected by
22 the Board from its members for a two-year term and will
23 not be limited in terms or service.

1 (d) QUORUM.—A majority of the current membership
2 of the Board shall constitute a quorum for the transaction
3 of business.

4 (e) MEETINGS.—The Board shall meet at the call of
5 the Chairman at least once a year. If a Director misses
6 three consecutive regularly scheduled meetings, that indi-
7 vidual may be removed from the Board and the vacancy
8 filled in accordance with subsection 3(b).

9 (f) REIMBURSEMENT OF EXPENSES.—Members of
10 the Board shall serve without pay, but may be reimbursed
11 for the actual and necessary traveling and subsistence ex-
12 penses incurred by them in the performance of the duties
13 of the Foundation, subject to the same limitations on re-
14 imbursement that are imposed upon employees of Federal
15 agencies.

16 (g) GENERAL POWERS.—(1) The Board may com-
17 plete the organization of the Foundation by—

18 (A) appointing officers and employees;

19 (B) adopting a constitution and bylaws consist-
20 ent with the purposes of the Foundation and the
21 provision of this Act. In establishing bylaws under
22 this subsection, and Board shall provide for policies
23 with regard to financial conflicts of interest and eth-
24 ical standards for the acceptance, solicitation and

1 disposition of donations and grants to the Founda-
2 tion; and

3 (C) undertaking such other acts as may be nec-
4 essary to carry out the provisions of this Act.

5 (2) The following limitations apply with respect to the
6 appointment of officers and employees of the Foundation:

7 (A) Officers and employees may not be ap-
8 pointed until the Foundation has sufficient funds to
9 pay them for their service. No individual so ap-
10 pointed may receive pay in excess of the annual rate
11 of basic pay in effect for Executive Level V in the
12 Federal service.

13 (B) The first officer or employee appointed by
14 the Board shall be the Secretary of the Board who
15 (i) shall serve, at the direction of the Board, as its
16 chief operating officer, and (ii) shall be knowledge-
17 able and experienced in matters relating to physical
18 fitness and sports.

19 (C) No Public Health Service employee nor the
20 spouse or dependent relative of such an employee
21 may serve as an officer or member of the Board of
22 Directors or as an employee of the Foundation.

23 (D) Any individual who is an officer, employee,
24 or member of the Board of the Foundation may not
25 (in accordance with the policies developed under sub-

1 section 3(g)(1)(B)) personally or substantially par-
2 ticipate in the consideration or determination by the
3 Foundation of any matter that would directly or pre-
4 dictably affect any financial interest of the individual
5 or a relative (as such term is defined in section 109
6 (16) of the Ethics in Government Act of 1978) of
7 the individual, of any business organization or other
8 entity, or of which the individual is an officer or em-
9 ployee, or is negotiating for employment, or in which
10 the individual has any other financial interest.

11 **SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.**

12 (a) IN GENERAL.—The Foundation—

13 (1) shall have perpetual succession;

14 (2) may conduct business throughout the sev-
15 eral States, territories, and possessions of the
16 United States;

17 (3) shall have its principal offices in or near the
18 District of Columbia; and

19 (4) shall at all times maintain a designated
20 agent authorized to accept service of process for the
21 Foundation. The serving of notice to, or service of
22 process upon, the agent required under paragraph
23 4(a)(4), or mailed to the business address of such
24 agent, shall be deemed as service upon or notice to
25 the Foundation.

1 (b) SEAL.—The Foundation shall have an official seal
2 selected by the Board which shall be judicially noticed.

3 (c) POWERS.—To carry out its purposes under sec-
4 tion 2, and subject to the specific provisions thereof, the
5 Foundation shall have the usual powers of a corporation
6 acting as a trustee in the District of Columbia, including
7 the power—

8 (1) except as otherwise provided herein, to ac-
9 cept, receive, solicit, hold, administer, and use any
10 gift, devise, or bequest, either absolutely or in trust,
11 of real or personal property or any income therefrom
12 or other interest therein;

13 (2) to acquire by purchase or exchange any real
14 or personal property or interest therein;

15 (3) unless otherwise required by the instrument
16 of transfer to sell, donate, lease, invest, reinvest, re-
17 tain, or otherwise dispose of any property or income
18 therefrom;

19 (4) to sue and be sued, and complain and de-
20 fend itself in any court of competent jurisdiction, ex-
21 cept for gross negligence;

22 (5) to enter into contracts or other arrange-
23 ments with public agencies and private organizations
24 and persons and to make such payments as may be
25 necessary to carry out its functions; and

1 (6) to do any and all acts necessary and proper
2 to carry out the purposes of the Foundation.

3 (d) DEFINITIONS.—For purposes of this Act, an in-
4 terest in real property shall be treated as including, among
5 other things, easements or other rights for preservation,
6 conservation, protection, or enhancement by and for the
7 public of natural, scenic, historic, scientific, educational,
8 inspirational or recreational resources. A gift, devise, or
9 bequest may be accepted by the Foundation even though
10 it is encumbered, restricted, or subject to beneficial inter-
11 ests of private persons if any current or future interest
12 therein is for the benefit of the Foundation.

13 **SEC. 5. VOLUNTEER STATUS.**

14 The Foundation may accept, without regard to the
15 civil service classification laws, rules, or regulations, the
16 services of volunteers in the performance of the functions
17 authorized herein, in the manner provided for under sec-
18 tion 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C.
19 742f(c)).

20 **SEC. 6. AUDIT, REPORTING REQUIREMENTS AND PETITION**
21 **TO ATTORNEY GENERAL FOR EQUITABLE RE-**
22 **LIEF.**

23 (a) AUDITS.—For purposes of the Act entitled “An
24 Act for audit of accounts of private corporations estab-
25 lished under Federal law”, approved August 30, 1964

1 (Public Law 88–504, 36 U.S.C. 1101–1103), the Founda-
2 tion shall be treated as a private corporation under Fed-
3 eral law. The Inspector General of the Department of
4 Health and Human Services and the Comptroller General
5 of the United States shall have access to the financial and
6 other records of the Foundation, upon reasonable notice.

7 (b) REPORT.—The Foundation shall, as soon as prac-
8 ticable after the end of each fiscal year, transmit to the
9 Secretary of the Department of Health and Human Serv-
10 ices and to Congress a report of its proceedings and activi-
11 ties during such year, including a full and complete state-
12 ment of its receipts, expenditures, and investments.

13 (c) RELIEF WITH RESPECT TO CERTAIN FOUNDA-
14 TION ACTS OR FAILURE TO ACT.—If the Foundation—

15 (1) engages in, or threatens to engage in, any
16 act, practice, or policy that is inconsistent with its
17 purposes set forth in section 2(b); or

18 (2) refuses, fails, or neglects to discharge its
19 obligations under this Act, or threatens to do so
20 the Attorney General of the United States may petition
21 in the United States District Court for the District of Co-
22 lumbia for such equitable relief as may be necessary or
23 appropriate.

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 There are hereby authorized such sums as are nec-
3 essary to carry out the purposes of this Act: *Provided,*
4 That, such sums are only available to the Foundation for
5 organizational costs.

○